

DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

POLICIES AND PROCEDURES

Subject:

HIPAA COMPLAINTS

Effective Date:
12/16/03

Policy Number:
HIPAA 03-2

Review Date:
11/2/06
Revision Date:
1/22/2007

Entity responsible:
Office of
Legal Counsel

1. **Purpose:**

To provide a process for the receipt of complaints, and to review, investigate, document, mediate, and resolve, privacy and security complaints filed in accordance with the requirements of the federal privacy and security regulations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

2. **Policy:**

All complaints must be documented, reviewed, investigated, mediated, and resolved as appropriate. Records must be maintained on each complaint in either written or electronic form. Such documentation and records must be maintained by the Privacy Officers at the Regional Mental Health Institutes (RMHIs) and by the Department of Mental Health and Developmental Disabilities (DMHDD) Central Office Privacy Officer.

3. **Procedure/Responsibility:**

All complaints must be referred to the Central Office or RMHI Privacy Officer.

3.1 Complaints must be filed in writing, either on paper or electronically, with the DMHDD Central Office or RMHI Privacy Officer to ensure all information has been accurately recorded. If the complainant is unable to file a complaint in writing or electronically and needs a special accommodation, s/he may seek assistance from the DMHDD Central Office or RMHI Privacy Officer or RMHI staff, who will help write his or her complaint, or the complaint may be filed by another person on his or her behalf.

3.2 The complaint must include the name of the entity that is the subject of the complaint, and a description of the acts or omissions believed to be in violation of the applicable requirements of the Privacy Rule.

- 3.3 All complaints must be acknowledged by the Central Office or RMHI Privacy Officer in a letter to the complainant, or to the complainant's parents, guardian, conservator, or legal representative, as appropriate.
 - 3.3.1 The letter must advise the complainant or complainant's representative, of the right to file a complaint with the United States Department of Health and Human Services, Office for Civil Rights (OCR), or the Centers for Medicare and Medicaid Services (CMS) within one hundred and eighty (180) days from the date the act or omission complained about occurred.
 - 3.3.1.1 If the complaint is about privacy issues, the complainant should be referred to the Office of Civil Rights (OCR).
 - 3.3.1.2 If the complaint is about security issues, the complainant should be referred to the Centers for Medicare and Medicaid Services (CMS).
- 3.4 All complaints received must be reviewed and investigated by the Central Office or RMHI Privacy Officer or designee within fifteen (15) business days of receipt of the complaint. If this timeframe needs to be extended, written approval must be obtained from either the Deputy Commissioner (for Central Office complaints) or the RMHI Chief Officer (for RMHI complaints).
- 3.5 At the completion of the investigation, corrective action(s) must be recommended, if determined appropriate.
- 3.6 The complainant or complainant's representative must be advised in writing by the Central Office or RMHI Privacy Officer of the results of the investigation, including recommendations for resolution.
- 3.7 All complaints and their disposition, including associated dates, must be documented and maintained by the RMHI or Central Office Privacy Officer in a written or electronic log system for at least six (6) years from the date received.
- 3.8 The complainant must be advised, in writing, by the Central Office or RMHI Privacy Officer, that the complainant has fifteen (15) business days from the date of receipt of the investigation results, to request a review of that decision. The Central Office Privacy Officer or a designee must review decisions concerning complaints filed against the RMHIs, and the Deputy Commissioner or a designee must review decisions concerning complaints filed against the Central Office.

4. Other Considerations:

Authority:

HIPAA Regulation 45 C.F.R. § 164.530(d)(1); Tenn. Code Ann. § 33-1-303; U.S. Department of Health and Human Services, Office for Civil Rights, How to File a Health

Information Privacy Complaint With the Office for Civil Rights, Fact Sheet,
<http://www.hhs.gov/ocr/privacyhowtofile.htm>

Approved:

Commissioner

Date